IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY APPLICATION NO.359 OF 2007
IN
COMPANY PETITION NO.166 OF 2002

The B.I.F.R. ..Petitioner.

And

IFCI Ltd. ..Applicant.

V/s.

The Official Liquidator of
M/s. Modistone Ltd. ..Respondent.

Mr.Rishabh Shah with Kalpesh Parekh i/b. Pragna Thakkar & Co. for applicant.

Mr.S.Ramakantha, Dy. O.L.present.

CORAM: A.M.KHANWILKAR,J

DATE : DECEMBER 5, 2007.

P.C. :

1. The Official Liquidator plainly accepts that the claim of the Applicant regarding expenses incurred by the Applicant for preservation of the property belonging to the Respondent-company in liquidation has been examined and accepted to the extent of Rs.9,14,878/- only. In other words, Official Liquidator concedes that the expenses, which have been adjudicated were incurred for preservation of property by way of employing security and related matters during the winding up proceeding. If it is

so, the said expenses will have to be disbursed in the first place before the Official Liquidator proceeds to consider the claim of creditors(secured or unsecured) and workmen, as the case may be.

2. In the circumstances, in the context of prayer clause (b), limited direction, that is given to the Official Liquidator, is to reimburse sum of Rs.9,14,878/- to the Applicant forthwith.

3. In so far as any other claim beyond the adjudicated claim by the Official Liquidator towards reimbursement of expenses is concerned, it will be open to the Applicant to pursue that claim before the Official Liquidator, which will be decided by the Official Liquidator in accordance with the law.

4. Counsel for the Applicant fairly submits that relief in terms of prayer clause (a) is not pressed on behalf of the Applicant in the present Application, as the Applicant has already taken out proceedings, which are pending before the Delhi Court and the Applicant prefers to stay out of the winding up and pursue his claim. That statement is placed on record.

5. In view of the above, no further order is required in the present Application. The same is disposed of on the above terms.

(A.M.KHANWILKAR,J)